

08/815,556 filed March 12, 1997, which is a continuation of U.S. application Serial No. 08/562,540 filed November 20, 1995, which is a continuation of U.S. application Serial No. 08/070,510 filed June 1, 1993. --

REMARKS

This application is a continuation application of U.S. application Serial No. 08/815,556, and is presented in order to introduce significant evidence regarding the nonobviousness of the claimed invention. This evidence concerns the commercial success, adoption, and praise within the industry of multi-layer golf balls embodying the present invention.

The Court of Appeals for the Federal Circuit has stated that, "objective indicia of nonobviousness, when present, are invariably relevant to the determination under Section 103." *Litton Systems, Inc. v. Honeywell, Inc.*, 87 F.3d 1559, 1569 (Fed. Cir. 1996) citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1538, 218 USPQ 871, 879 (Fed. Cir. 1983). "Objective considerations may often be the most probative and cogent evidence of nonobviousness in the record." *Id.*

In fact, the Federal Circuit has instructed that such evidence must be considered. "[E]vidence on secondary considerations must have been considered prior to reaching a conclusion on obviousness/nonobviousness." *DeMaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387, 1391 (Fed. Cir. 1988), citing *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 306, 227 USPQ 657, 674 (Fed. Cir. 1985), *cert denied*, 475 US 1017, 106 S. Ct. 1201, (1986).

However, in order to acquire substantial significance in an obviousness decision, "evidence of objective consideration must include a nexus to the merits of the claimed invention." *Litton Systems*, 87 F.3d at 1569, citing *Cable Electric Products v Genmark, Inc.*, 770 F.2d 1015, 1026, 226 USPQ 881, 887 (Fed. Cir. 1985). Further in this regard, the Federal Circuit has instructed that:

When a patentee asserts that commercial success supports its contention of nonobviousness, there must of course be a sufficient relationship between the commercial success and the patented invention. The term "nexus" is often used, in this context, to designate a legally and factually sufficient connection between the